

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAHFILED
U.S. DISTRICT COURT

2007 JAN 16 P 1:22

DISTRICT OF UTAH

Civil Action No. 2:06-CV-526-DB

DEPUTY CLERK

LESTER JON RUSTON,

§

Plaintiff,

§

vs.

§

CHURCH OF JESUS CHRIST OF LATTER DAY
SAINTS, ET AL.

§

Defendants,

§

§

MOTION FOR APPOINTMENT OF COUNSEL

Comes now, Plaintiff, Lester Jon Ruston, and files this, his Motion for Appointment of Counsel, and would show as follows:

I.

That the Plaintiff is indigent and was granted I.F.P. status in this matter. The Court has refused to issue service, for reasons unknown, despite Rule 4(c)(2) of the Fed.R.Civ.P. and 28 U.S.C. § 1915. Plaintiff asserts that he cannot afford counsel, pursuant to 28 U.S.C. § 1915(e)(1), and that he does need counsel to effect service properly upon the Defendants, and assist in gaining immediate injunctive relief. The Defendants continue to engage in acts of "witness tampering" with the U.S. Attorney of the N.D. Texas, Dallas Division, in furtherance of R.I.C.O. Racketeering Acts (see Exhibit A attached-7 pages), which clearly shows the U.S. Attorney has engaged in "fraud" to cover up the alleged civil and constitutional deprivations by the Defendants. When these conditions exist, the Courts have ruled the appointment of counsel is appropriate in Moore v. Mabus, 976 F.2d 268 (5th Cir. 1992).

II.

Defendant, Allison Ruston-Smith has conspired to commit kidnapping, bribery, torture, witness tampering with Dallas County, which is "public record" in Ruston v. Dallas County, et al. 3:06-CV-1582-M N.D. Tex., Dallas Division, a related civil matter. Defendants Smith and Margaret Ruston committed fraud in

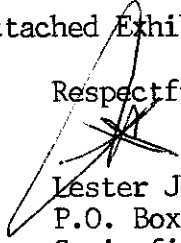
2001, as alleged in this complaint, and continue to engage in attempts to have Plaintiff harmed, while in illegal custody. When these conditions exist, the Courts have ruled the appointment of counsel is appropriate in Montgomery v. Pinchak, 294 F.3d 492, 499 (3rd Cr. 2000).

III.

Plaintiff has attempted to obtain pro-bono counsel, Jamie Zenger, Federal Public Defender, Center for Constitutional Rights and the ACLU to assist, without success. When these conditions exist, and Plaintiff is in danger, the courts have ruled appointment of counsel is appropriate in Zarnes v. Rhodes, 64 F.3d 285 (7th Cir. 1995).

Wherefore, premises considered, Plaintiff, Lester Jon Ruston, does file this, his Motion to Appoint Counsel, and does move the Court to Grant this motion for all reasons alleged herein, and in attached Exhibit A.

Respectfully Submitted,


Lester Jon Ruston #26834-177
P.O. Box 4000
Springfield, Missouri 65801

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing instrument was provided to the clerk of the court on January 10, 2007, by placing such in the inmate mail box with first class postage affixed, pursuant to the Fed.R.Civ.P. Defendants claim no service has issued, therefore he will not serve them a copy, until the issue is decided and Plaintiff is noticed properly.



Lester Jon Ruston

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

CHARLES R. FULBRUGE III
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE
NEW ORLEANS, LA 70130

November 24, 2006

Mr Lester Jon Ruston
Federal Correctional Institution
Seagoville
#26834-177
2113 N Highway 175
PO Box 9000
Seagoville, TX 75159

No. 06-11216 USA v. Ruston
USDC No. 3:04-CR-191-ALL

We have docketed your appeal.

The district court advises no judgment and commitment order has been entered. We will set no deadlines at this time. When we are notified the judgment and commitment order is filed we will advise you when your transcript order, etc. will be due at this court.

Sincerely,

CHARLES R. FULBRUGE III, Clerk

By:


Mary Frances Noveh
Case Management Clerk
504-310-7686

cc: Ms Susan B Cowger
Mr Mick Mickelsen

P.S. to Mr. Mickelsen: We have removed your name from the docket. You will receive no further correspondence, etc. in light of district court's order withdrawing you from the case.

DKT-8

EXHIBIT A RUSTON V. MORMONS 2:06-CV-526-DB
PAGE 2 OF 7

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

U.S. DISTRICT COURT NORTHERN DISTRICT OF TEXAS	
FILED	
OCT 16 2006	
CLERK, U.S. DISTRICT COURT	
By _____	Deputy _____

UNITED STATES OF AMERICA

v.

LESTER JON RUSTON

§
§
§
§
§

Criminal No. 3:04-CR-191-G

ORDER

On this the 12th day of October, 2006 came on to be heard the above styled and numbered cause for trial. After due consideration of the joint stipulation of facts filed by the government and the defendant as well as arguments offered by counsel, the Court finds the defendant not guilty by reason of insanity.

IT IS THEREFORE ORDERED that Defendant be committed to the custody of the Attorney General for placement in a suitable facility and that a psychiatric or psychological examination of the defendant be conducted.

IT IS FURTHER ORDERED that a psychiatric or psychological report be filed with the court pursuant to 18 U.S.C. § 4247(b) and (c) no later than 35 days from the date of this order. The United States Marshal shall transport the defendant to the designated facility at such time as may be expedient for the execution of this order.

IT IS FURTHER ORDERED that this case is reset for a hearing pursuant to 18

U.S.C. § 4243(c) on the 30 day of November, 2006 at 9:30 am/pm.

Signed this 16 day of October, 2006.

EXHIBIT A RUSTON V. MORMONS
2:06-CV-526-DB PAGE 3 OF 7

A. Joe Fish
A. JOE FISH
CHIEF UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF TEXAS



United States Attorney
Northern District of Texas

1100 Commerce St., 3rd Fl.
Dallas, Texas 75242-1699

Telephone (214)659-8600
Fax (214)767-2846

November 14, 2006

Lester Jon Ruston
Reg. No. 25834-177
FCI - Seagoville
P.O. Box 9000
Seagoville, TX 75159

Re: United States v. Lester Jon Ruston
Appeal No. 06-11216

Dear Mr. Ruston:

Assistant United States Attorney Susan Cowger is the attorney of record for the government in the above-referenced appeal. All mail and any inquiries about the above-referenced appeal should be directed to her.

Sincerely,

RICHARD B. ROPER
United States Attorney

A handwritten signature in cursive script that reads "Sue Pafford".

SUE N. PAFFORD
Legal Assistant



United States Attorney
Northern District of Texas

1100 Commerce St., 3rd Fl.
Dallas, Texas 75242-1699

Telephone (214)659-8600
Fax (214)767-2846

December 20, 2006

Tom Rodwig
United States Court of Appeals
for the Fifth Circuit
600 S. Maestri Place
New Orleans, LA 70130

MORMON FRAUD!
CULT OF LIARS

Re: U.S. v. Lester Ruston
Appeal No. 06-11316 - FRAUD

FRAUD

Tom:

It appears that Lester Ruston is appealing the denial of a pro se motion. The district court denied his motion without participation from our office.

Under these circumstances, please be advised that this office will not be entering an appearance in this case. However, if the Court of Appeals requests a response from the Government, I will certainly enter an appearance and comply with the Court's request.

RICHARD B. ROPER
United States Attorney

SUSAN COWGER
Assistant United States Attorney

cc. Lester Ruston
Reg. No. 26834-177
Medical Center for Federal Prisoners
P.O. Box 4000
Springfield, MO 65801-4000

United States District Court
Northern District of Texas
Office of the Clerk

Dallas Division
1100 Commerce Room 1452
Dallas, TX 75242-1003

Oct 26, 2006

Mr. Charles R. Fulbruge III, Clerk
U.S. Court of Appeals - Fifth Circuit
600 S. Maestri Place
New Orleans, LA 70130

SUBJECT: 3:04-cr-00191 Lester Jon Ruston

Dear Mr. Fulbruge:

In connection with the appeal cited above, the following documents are transmitted:

- ☒ Certified copy of the notice of appeal and docket entries
- ☐ Certified copy of the notice of cross-appeal and docket entries
- ☐ Record on appeal consisting of # volume(s) of the record:

Volume(s) of the transcript _____ PSI and SOR page Sealed

Container(s) of exhibits _____ Sealed envelopes

ORIGINAL DOCUMENT(S) ENCLOSED--RETURN TO DISTRICT COURT

- ☐ Supplemental record, including updated docket entries
- ☐ Copy of CJA-20 appointing counsel
- ☐ Other: {Please Specify}

In regard to the notice of appeal, the following additional information is furnished:

- ☐ The Court of Appeals docket fee { } been paid
- ☒ The case is proceeding *in forma pauperis*
- ☐ Fee has been requested
- ☐ A motion to proceed *in forma pauperis* on appeal is currently pending in district court.
- ☒ The District Judge entering the final judgment is: **Judge A. Joe Fish**
- ☒ Court proceedings were held in this case; the court reporter assigned to this case is:

Cass Casey

- ☐ Names of co-defendants if any, and any pending appeals: {co-defendants}
- ☐ This case was decided without a hearing, therefore there will be no transcript
- ☐ UPS Tracking #: {Number}

Sincerely,
KAREN MITCHELL
Clerk of Court

By: s/ S VanCamp

Deputy Clerk

cc:

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

U.S. DISTRICT COURT NORTHERN DISTRICT OF TEXAS	
FILED	
NOV - 9 2006	
CLERK, U.S. DISTRICT COURT	
By _____	Deputy <i>SV</i>

UNITED STATES OF AMERICA,
Plaintiff,

v.

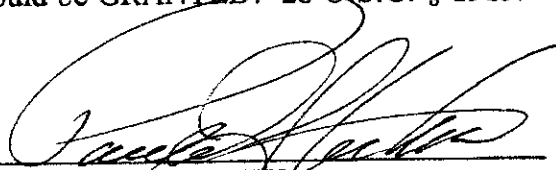
LESTER JOHN RUSTON,
Defendant.

No. 3:04-CR-191-G

**RECOMMENDATION REGARDING MOTION TO WAIVE
COUNSEL AND PROCEED IN FORMA PAUPERIS ON APPEAL**

Before the court is Plaintiff's Motion for Leave to waive counsel and to proceed *in forma pauperis* on Appeal. The Court recommends that the motion to waive counsel be GRANTED. Further, the motion for leave to proceed *in forma pauperis* on appeal should be GRANTED. 28 U.S.C. § 1915.

DATE: November 8, 2006


PAUL D. STICKNEY
UNITED STATES MAGISTRATE JUDGE

**ORDER REGARDING MOTION TO WAIVE COUNSEL
AND TO PROCEED IN FORMA PAUPERIS ON APPEAL**

The Court has reviewed the recommendation of the United States Magistrate Judge. The motion to waive counsel on appeal is GRANTED. Further, the motion for leave to proceed *in forma pauperis* on appeal is GRANTED. 28 U.S.C. § 1915.

SO ORDERED this 9 day of November, 2006.


A. JOE FISH
UNITED STATES DISTRICT JUDGE